***THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

WRIT PETITION No.996 of 2007

% 21-02-2007

Qualified Teachers of Recognized Private Unaided Educational Institutions, rep.by its Convenor, Hyderabad & others

…Petitioners

And

$ The Principal Secretary, Government of A.P., Hyderabad & others.

…Respondents

! COUNSEL FOR PETITIONERS: Mr.S.Ramachandra Rao

^ COUNSEL FOR RESPONDENTS: Advocate General, Mr. C.P. Sarathy.

< Gist:

> Head Note:

? CITATIONS:

-Nil-

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 996 OF 2007

Dated 21-02-2007

Between:

Qualified Teachers of Recognized Private Unaided
Educational Institutions, rep. by its Convenor,
Hyderabad and others

…Petitioners

And

The Principal Secretary,
Government of Andhra Pradesh,
Hyderabad and others.

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 996 OF 2007

O R D E R:

The A.P. Legislative Council, which was dispensed with about two decades ago, was revived in the recent past, through necessary resolutions of the A.P.State Legislative Assembly and the Parliament. The preparatory steps for the purpose of elections to the Council have been initiated. Electoral lists for the respective constituencies, such as, Representatives of the local bodies, Teachers and Graduates, are to be prepared. No exercise worth its name, in the matter of preparation of lists, for the election of members of Council by the members of Legislative Assembly, or by nomination by the Governor, becomes necessary. Out of 90 seats, 8 are to be filled, through the election of candidates by teachers. This writ petition relates to the preparation of voters' lists for the 8 Teachers' Constituencies. Out of the 8 seats, one is allotted to the 3 Districts of Mahaboobnagar, Ranga Reddy and Hyderabad.

The 1st petitioner is a representative body and petitioners 2 to 4 are individual teachers, hailing from different places in the State. Their grievance is that the respondents initially prepared the voters list, in accordance with Article 171(3)(c) of the Constitution of India, Section 27(3)(b) of the Representation of People Act, 1950 (for short "the Act") and G.O.Ms.No.537, dated 28.9.2006. It is stated that the final voters'

lists were published for the respective constituencies on 12.01.2007, and on the next day itself, another list was published, by deleting almost half of the names, on the basis of a communication dated 30.12.2006, received from the Election Commission of India, the 2nd respondent, and the consequential proceedings of the same date, issued by the

1st respondent. It is alleged that the deletion of names of such a large number of persons from the voters list is contrary to the provisions referred to above and principles of natural justice. The petitioners have enclosed various lists and copies of relevant proceedings.

The 1st respondent filed a detailed counter affidavit, together with necessary enclosures. According to him, the draft voters' list was published on 22.11.2006. Objections were received between 22.11.2006 and 15.12.2006, and the final list was published on 12.1.2007. He stated that the petitioners appear to have come into possession of some printouts, taken in the preparatory process, and have treated them as final lists. The 1st respondent has categorically stated that the final voters list was published on 12.01.2007, so much so that the lists were circulated to the recognized political parties, on the same day. He raises an objection as to the maintainability of the writ petition, at the instance of the 1st petitioner. As regards petitioners 2 to 4, it is stated that if their names have been wrongfully deleted, they can certainly avail the remedy of appeal, and such an exercise can be continued, till the last date of filing of nominations. It is stated that the 2nd respondent did not issue any fresh instructions on 30.12.2006, and the question of amending the voters' list, on the strength of the same, does not arise.

Much of the controversy turned around a list said to have been published for Hyderabad-16. According to the petitioners, the list appended on 12.01.2007 contained 295 names, whereas, on the next day, a revised list of 132 names was published. Since both the lists were said to have been issued under the authority of the Electoral Registration Officer of Hyderabad Graduates/ Teachers Constituency, this court directed him to file an affidavit. In his affidavit, the Electoral Registration Officer stated that the final list was prepared on 6.01.2007, and since the last date was extended up to 12.01.2007, the computer was programmed accordingly. He stated that the title page, in respect of some rough electoral rolls prepared on 6.01.2007, contained the date 12.01.2007, since the last date was extended. He expressed surprise about the petitioners having access to such rough material. It is also his case that the alleged list dated 12.01.2007, comprising of 295 names, does not contain his signature, and it is only a facsimile.

On behalf of the 2nd respondent, a counter affidavit is filed, mainly taking an objection, as to the maintainability of the writ petition.

Sri S.Ramachandra Rao, learned Senior Counsel appearing for the petitioners, made extensive submissions, with reference to the relevant provisions of the Constitution of India, the Representation of People Act and Notifications issued by the Government. He contends that there is ample evidence to show that the final list was published on 12.01.2007, and that the respondents have undertaken extensive deletion of names, on the next day. He made specific reference to the list prepared for Hyderabad-16, as well as summary of information contained in some Compact Disks. According to the learned counsel, though the Election Commission has declared the schedule, this court

can issue necessary directions for correcting the gross mistake, since valuable rights of hundreds of teachers are involved.

Learned Advocate General submits that the writ petition is misconceived and is based upon guesswork. He points out that the final Electoral list was published on 12.01.2007 and circulated to the recognized political parties, on the same day. According to him, no list was prepared or published on 13.01.2007. As regards the allegation that the alterations were made, on the strength of communication dated 30.12.2006, issued by the 2nd respondent, he contends that the same is nothing but reiteration of the detailed instructions, contained in the guidelines that constituted the basis for G.O.Ms.No.537, dated 28.9.2006. It is also his case that the inclusion of large number of names in the draft list was on account of lack of proper understanding, as to the qualifications and eligibility of the candidates, for the inclusion in the list, and after receiving necessary information and on an examination of provisions, the final lists were prepared. He contends that the election programme has since been notified and that the writ petition cannot be entertained.

Sri C.P.Sarathy, learned Senior Counsel appearing for the 2nd respondent, raises an objection as to the maintainability of the writ petition. He contends that if any person feels aggrieved by deletion of his name, he can certainly avail the remedy of appeal, provided for under the Act.

The first petitioner is said to be an association of teachers of different categories. The affidavit of the petitioner is not clear, as to whether the association is registered. Assuming that it is registered, the objection raised on behalf of the respondents as to the

maintainability of the writ petition, at the instance of the 1st petitioner, needs to be examined, may be in a limited context. The grievance of the petitioners in the writ petition is about deletion of names of substantial number of persons, that names were included in the Draft Electoral lists. The grievance that results out of the deletion of a name in the Electoral list is purely personal in nature. One person cannot complain about the deletion of name of another, when the latter himself does not have any objection. Further, the inclusion or deletion of names in voters' list, would depend upon the eligibility and qualifications of the respective individuals. That is the reason why the Representation of People Act, which prescribes a detailed procedure for preparation of updating of the Electoral Lists, provides for appeal by the aggrieved parties, in the event of deletion of names. Therefore, it becomes highly doubtful, as to whether a writ petition can be maintained by a society, complaining about the deletion or inclusion of names, in the respective voters' list. Having regard to the limited scope of controversy in this writ petition, the said question is left open, to be decided, as when the situation of required magnitude arises. The complaint of the petitioners can be examined from the point of view of the petitioners 2 to 4.

The main grievance urged on behalf of the petitioners is that a final list was published on 12.01.2007, and it was drastically altered on the next day, i.e. 13.01.2007, on the strength of the instructions received from the 2nd respondent. Since the petitioners filed 2 lists, with same date i.e. 12.01.2007 for Hyderabad-16, one containing 295 names and the other 132 names, this court has undertaken close scrutiny of the available material.

The record discloses that the Government issued

G.O.Ms.No.537, dated 28.9.2006, in exercise of its powers, conferred under Section 27(3)(b) of the Act, listing the categories of Educational Institutions, for the purpose of inclusion of the teachers working therein, in the voters' lists for the Teachers' Constituencies. The 2nd respondent, the Election Commission of India, communicated their instructions, through letter dated 27.9.2006. The same was referred to in the G.O. For preparation of voters' lists, a schedule was published, through memo dated 2.11.2006. The receipt of applications commenced from 6.11.2006, and publication of Draft Electoral Rolls was scheduled to be notified on 22.11.2006. A period of two weeks was earmarked, between 22.11.2006 and 7.12.2006, for filing of objections and claims. Though 29.12.2006 was notified as date of final publication of voters' lists, it was extended once till 6.01.2007, and thereafter till 12.01.2007.

On account of change of dates of final publication, the programme in the computers had to be changed. The respondents categorically stated that the final publication of Electoral Rolls was done on 12.01.2007, and in fact, the lists were furnished to the respective political parties. Acknowledgments containing the said date were placed before this court.

Most of the contentions advanced on behalf of the petitioners, revolve around a final list said to have been published by the Electoral Registration Officer of Mahaboobnagar, Ranga Reddy and Hyderabad Teachers Constituency, which contained 295 names for Hyderabad-16. It is no doubt true that the cover note and the heading of its list contained the date 12.01.2007. It is, however, explained that the said date came to be shown in the rough lists also, on account of change in

the computer programme. It is categorically asserted that the final list was published on 12.01.2007, with 132 names.

In view of the fact that no specific or particular form of publication is prescribed under the Act, or the rules made thereunder, there existed some scope for uncertainty, as to the exact point of final publication. When the concerned authority categorically states that the list was published on 12.01.2007, and that it was circulated to the recognized political parties, this court finds it difficult to entertain a doubt about it. Obviously because the preparation of the voters list was undertaken, after a lapse of 20 years, some rough exercise did precede the final publication. It is not uncommon that the services through computer yield vast majority of benefits, as well as certain situations, which can otherwise be avoided. The matter becomes somewhat complicated, if frequent changes are fed into, on certain material aspects. An otherwise rough material is prone to be mistaken for the final one. Having regard to the clear and specific explanation offered by the concerned authorities, this court is satisfied that the final Electoral List was published on 12.01.2007, and there is nothing on record, to disclose that it was modified on 13.01.2007.

At any rate, two factors dissuade this court from undertaking any further scrutiny into the controversy. The first is that the 2nd respondent has already declared the election programme, and it becomes impermissible for the court, to examine the matter at this stage. Secondly, the Act provides for appeals to the aggrieved persons, and necessary corrections in the Electoral Rolls can be undertaken, till the last date of filing of nominations. The aggrieved parties can certainly avail the remedy.

Hence, the writ petition is dismissed. There shall be no order

as to costs.

(L.NARASIMHA REDDY, J)

Dt.21-02-2007.
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